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August 5, 2019

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

National FOIA Office
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2310A)
Washington, DC 20460

Subject: Freedom of Information Act Request Regarding the McColl Superfund Site

Dear FOIA Officer:

Miller Nash Graham & Dunn LLP ("Requestor") submits this request for information under the Freedom of Information Act ("FOIA") pursuant to 5 U.S.C. § 552 *et seq.*

In this request we seek records pertaining to a U.S. Environmental Protection Agency's Office of the Inspector General audit of a certain Cooperative Agreement entered into between the U.S. Environmental Protection Agency and California's Department of Health with respect to the McColl Superfund Site located in Fullerton, California.

FOIA Request

Requestor seeks disclosure of records¹ concerning the U.S. Environmental Protection Agency's Office of the Inspector General Final Report Number 5300027 and Audit Control Number S5BGN3-09-0140. For ease of reference, the above identified Final Report Number and Audit Control Number are identified on page 2 of Exhibit 1 to

¹ The term "records" as used herein includes but is not limited to all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, faxes, files, e-mails, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

Freedom of Information Act Request
August 5, 2019
Page 2

the U.S. Environmental Protection Agency's Office of the Inspector General's Annual Superfund Report to the Congress for Fiscal Year 1995. See the Annual Report attached hereto as **Exhibit A**.

If this request is denied in whole or in part, we ask that you justify all withholdings by reference to specific exemptions to the FOIA. We expect the release of all segregable portions of otherwise exempt material. We are prepared to pay fees up to \$100, and request to be informed of further fees that may be charged.

Thank you in advance for your timely consideration of this request. Please furnish all applicable records to Phillip Allan Trajan Perez, Miller Nash Graham & Dunn LLP, 340 Golden Shore, Suite 450, Long Beach, California 90802, telephone (562) 435-8002, email trajan.perez@millernash.com. By the signature below, the undersigned requestor certifies that the above statement is true and correct to the best of their knowledge and belief.

Best regards,



Phillip Allan Trajan Perez
Miller Nash Graham & Dunn LLP

Exhibit A



United States
Environmental Protection
Agency

Office of the Inspector General
401 M Street, S.W. (2421)
Washington, D.C. 20460

September 1996

EPA's Office of the Inspector General

**Annual
Superfund Report
to the Congress
for Fiscal 1995**

ANNUAL SUPERFUND REPORT TO THE CONGRESS FOR FISCAL 1995

September 1996

Required by
Section 111(k) of the
Comprehensive Environmental Response, Compensation,
and Liability Act of 1980 (CERCLA),
as amended by the Superfund Amendments and
Reauthorization Act of 1986 (SARA)

**OFFICE OF THE INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY**

FOREWORD

This report covers fiscal 1995 activities, and is our ninth Annual Superfund Report to the Congress. The Superfund Amendments and Reauthorization Act of 1986 (SARA) requires the Office of the Inspector General (OIG) to audit the Superfund program annually and to report to Congress annually on these audits.

In addition to reviewing Agency performance, we also take a proactive role to help the Environmental Protection Agency (EPA) management prevent future problems. During fiscal 1995, we assisted EPA management in a number of ways. We actively participated in the Agency's Superfund Senior Regional Management Acquisition Council to help the Agency continue to improve its contract procurement and management. We worked with the Agency as it sought to improve its information resources management. We provided assistance in determining the financial capability of potentially responsible parties (PRPs) at one Superfund site.

We have worked closely with the Agency on matters related to Superfund reauthorization. In support of the Administration's efforts to streamline reporting, we noted to Congress that many sections of the Agency's annual Superfund progress report to Congress could be eliminated, as could the requirement that we audit it. We also identified our own annual Superfund report to Congress, this report, as one that largely duplicated the semiannual reporting requirement, and could be eliminated. We urged Congress to eliminate the specific Superfund auditing requirements in order to allow us to use our discretion to focus audit resources where most needed.

Pending reauthorization of Superfund, the Agency has implemented a number of initiatives to improve the functioning of the Superfund program within current statutory constraints. We continue to find that these efforts appear to be achieving their objectives. We found that Region 9 pilots integrating Superfund site assessment activities significantly improved the timeliness and cost effectiveness of the site assessment process. We also found that the Early Action pilot at a Wisconsin Superfund site allowed for rapid reduction of risk from contaminants through early, aggressive control measures. In addition, we found a Design Accelerated Remedial Target (DART) pilot in Connecticut improved cooperation with PRPs, appeared to have reduced transaction costs and increased remedy selection flexibility, and may accelerate cleanup.

The beginning of the Superfund program created new and unique cost accounting requirements. Although EPA has continued to improve its site-specific accounting and documentation of Superfund costs, significant weaknesses remained to be corrected. In our fourth review of the Hazardous Substance Superfund under the Chief Financial Officers (CFO) Act requirements, we again disclaimed an opinion on the financial statements because of material weaknesses in EPA's financial management system and accounting controls. The primary reasons we could not determine whether the statements were fairly presented were weaknesses concerning accounting for property, accounting for the components of net position, recording reimbursable Superfund oversight costs as assets, accounting for grants funded from more than appropriations, and allocating expenses to show the full cost of the Fund in the financial statements.

Our reviews of the Agency's performance in managing the Superfund program indicated that the Agency has made significant improvements in some areas we have been reviewing for several years, but that it needs to continue efforts to rectify longstanding problems. In the area of contract management, our review of management of Environmental Services Assistance Team (ESAT) contracts found many aspects were well managed but EPA still needed to make improvements. EPA officials did not adequately determine whether costs claimed by contractors were reasonable and appropriate before recommending payment. EPA was also providing government equipment to contractors without following Federal regulatory requirements.

We found that the Agency gave low priority to reviews required by Congress to make sure site remedies continued to protect human health and the environment. These reviews are an important control since some EPA did conduct found failures in the remedies. We also found EPA Region 9 failed to adequately oversee data quality assurance at Department of Defense Superfund sites, resulting in millions of dollars of data having to be rejected and long delays in cleanups. In addition, we found that Region 8 needed better sampling controls and more consistent oversight of sampling at Superfund sites.

We found that Region 7 funded management and support activities with resources meant to operate environmental programs, disregarded reprogramming rules, routinely overobligated program elements, and did not provide program managers with sufficient budget and financial information. We also found that EPA used outdated cost factors which may have substantially underestimated response costs and budgets for Superfund sites.

Our follow-up reviews to see how well the Agency had done in making improvements we had recommended in earlier reports showed a mixed picture. We found the Agency had completed or was nearing completion of corrective actions to address significant problems in reporting its Superfund accomplishments. But we also found that Region 7 still needed to do considerable work to improve its PRP search program. While the Region had taken some steps to address our earlier recommendations, it could not demonstrate effective monitoring or improved timeliness of PRP searches, and could not provide a complete list of searches conducted and in progress.

Our Superfund investigative efforts resulted in several indictments, convictions, and administrative actions. One firm received EPA payments for pollution self-insurance although it did receive a quote for such insurance from an insurance company, and continued to receive these payments even after it purchased such insurance. The firm repaid the entire cost of the contract, in addition to costs of auditing, investigating, and prosecuting the case. The President of another firm pled guilty to submitting false certifications with respect to required hazardous materials training, and the firm made restitution to EPA.

We continued to achieve successes in our efforts to respond to problems of fraudulent data analysis and sampling. A laboratory used by a number of government agencies to analyze samples from hazardous waste sites pled guilty to fraudulently manipulating data, and two of its managers went to prison for the offenses. An EPA subcontractor settled with the Government on charges of submitting false claims for soil sample analysis not complying with EPA specifications.

We will continue to help Agency management deliver the most effective and efficient Superfund program through a comprehensive program of audits, investigations, fraud prevention, and cooperative efforts with Agency management.


John C. Martin
Inspector General

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PURPOSE

We provide this report pursuant to section 111(k) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. The Superfund Amendments and Reauthorization Act (SARA) of 1986 amended that section of CERCLA to add several annual requirements for the Inspector General of each Federal agency carrying out CERCLA authorities. These requirements include four audit areas and an annual report to Congress about the required audit work. This report covers fiscal 1995 audits of Superfund activities. We discuss the required four audit areas below.

This report contains chapters on the mandated audit areas, except claims. We also summarize other significant Superfund audit work, assistance to EPA management, and Superfund investigative work performed during fiscal 1995. We exceed the statutory requirements by providing Congress with the significant results of Superfund work beyond that specifically mandated in section 111(k).

Trust Fund

CERCLA requires "... an annual audit of all payments, obligations, reimbursements, or other uses of the Fund in the prior fiscal year. ..." We now meet this requirement through the financial statement audit required by the Chief Financial Officers Act of 1990.

Claims

CERCLA requires an annual audit to assure "... that claims are being appropriately and expeditiously considered ..." Since SARA did not include natural resource damage claims as allowable Fund expenditures, the only claims provided in CERCLA, as amended, are response claims.

Cooperative Agreements

CERCLA requires audits "... of a sample of agreements with States (in accordance with the provisions of the Single Audit Act) carrying out response actions under this title ..." We perform financial and compliance audits of cooperative agreements with States and political subdivisions. Some of our audits also review program performance.

Remedial Investigations/Feasibility Studies (RI/FS)

CERCLA requires our "... examination of remedial investigations and feasibility studies prepared for remedial actions ..." Our RI/FS examinations review the adequacy of the studies to provide a sound technical basis for remedial action decisions. We usually perform these examinations as special reviews by our technical staff.

BACKGROUND

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), Public Law 96-510, enacted on December 11, 1980, established the "Superfund" program. The purpose of the Superfund program is to protect public health and the environment from the release, or threat of release, of hazardous substances from abandoned hazardous waste sites and other sources where other Federal laws do not require response. CERCLA established a Hazardous Substance Response Trust Fund to provide funding for responses ranging from control of emergencies to permanent remedies at uncontrolled sites. CERCLA authorized a \$1.6 billion program financed by a five-year environmental tax on industry and some general revenues. CERCLA requires EPA to seek response, or payment for response, from those responsible for the problem, including property owners, generators, and transporters.

The Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law 99-499, enacted October 17, 1986, revised and expanded CERCLA. SARA reinstituted the environmental tax and expanded the taxing mechanism available for a five-year period. It authorized an \$8.5 billion program for the 1987-1991 period. It renamed the Trust Fund the Hazardous Substance Superfund. The Budget Reconciliation Act of 1990 reauthorized the program for three additional years and extended the taxing mechanism for four additional years.

The basic regulatory blueprint for the Superfund program is the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300. The NCP was first published in 1968 as part of the Federal Water Pollution Control Plan, and EPA has substantially revised it three times to meet CERCLA requirements. The NCP lays out two broad categories of response: removals and remedial response. Removals are relatively short-term responses and modify an earlier program under the Clean Water Act. Remedial response is long-term planning and action to provide permanent remedies for serious abandoned or uncontrolled hazardous waste sites.

CERCLA recognized that the Federal Government can only assume responsibility for remedial response at a limited number of sites representing the greatest public threat. Therefore, EPA must maintain a National Priorities List (NPL), and must update it at least annually. The NPL consists primarily of sites ranked based on a standard scoring system, which evaluates their threat to public health and the environment. In addition, CERCLA allowed each State to designate its highest priority site, without regard to the ranking system.

CERCLA section 104(c)(3) does not allow EPA to fund remedial actions unless the State in which the release occurs enters into a contract or cooperative agreement with EPA to provide certain assurances, including cost sharing. At most sites, the State must pay 10 percent of the costs of remedial action. EPA may fund 100 percent of site assessment activities (preliminary assessments, site inspections), remedial planning (remedial investigations, feasibility studies, remedial designs), and removals. For facilities operated by a State or political subdivision at the time of disposal of hazardous substances, the State must pay 50 percent of all response costs, including removals and remedial planning previously conducted.

CERCLA sections 104(c)(3) and 104(d) authorize EPA to enter into cooperative agreements with States or political subdivisions to take, or to participate in, any necessary actions provided under CERCLA. A cooperative agreement serves to delineate EPA and State responsibilities for actions to be taken at the site, obtains required assurances, and commits Federal funds. EPA uses cooperative agreements to encourage State participation in the full range of Superfund activities - site assessment, remedial, removal, and enforcement.

RI/FS	Remedial Investigation/Feasibility Study
ROD	Record of Decision
RPM	Remedial Project Manager
RPO	Regional Project Officer
RREL-RCB	Risk Reduction Engineering Laboratory-Releases Control Branch (EPA)
RTP	Research Triangle Park, NC
SACM	Superfund Accelerated Cleanup Model
SAP	Sampling and Analysis Plan
SARA	Superfund Amendments and Reauthorization Act of 1986
SI	Site Inspection
SRMAC	Superfund Senior Regional Management Acquisition Council (EPA)
SRO	Superfund Revitalization Office (EPA)
START	Superfund Technical Assessment and Response Team (EPA contracts)
Sub.	Subcontract or Subcontractor
Supp.	Support
Tech.	Technical
TES	Technical Enforcement Support (EPA contracts)
TID	Technical Instruction Document
TN	Tennessee
TX	Texas
Univ.	University
U.S.	United States
VA	Virginia
WA	Washington
WI	Wisconsin
WV	West Virginia



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